IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

CRP.No. 1440 of 2002(C)

AGAINST THE ORDER DATED 19/08/2000 IN SC6 IN CR.158/1973 of TALUK LAND BOARD, THIRURANGADI

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REVN. PETITIONER:

SAROJINI, W/O. BALAN, AMBALAPARAMBIL, ULLANAM, PARAPPANANGADI, MALAPPURAM DISTRICT

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT, TRIVANDRUM.

2. TALUK LAND BOARD, TIRURANGADI, MALAPPURAM.

BY GOVT. PLEADER SRI.SHYSON P.MANGUZHA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP NO.3617/2002 IN CRPNO.1440/2002

DISMISSED

12.7.2007 SD/- PIUS C.KURIAKOSE, JUDGE

/TRUE COPY/

P.A.TO JUDGE

PIUS C. KURIAKOSE, J.

C.R.P. NO.1440 of 2002

Dated this the 12th day of July , 2007

O R D E R

The present petitioner, who is Sarojini wife of Balan, and one Krishnan, the legal heir of Kakkattil Kunhukuttan had filed claim petition before the Taluk Land Board contending that they are cultivating tenants and therefore, the properties under their possession are not liable to be included in the account of the declarant. The claims were dismissed and the challenge of the present petitioner and Sri.Krishnan against the order dismissing their claims were unsuccessful. Now both Sri.Krishnan and the petitioner filed applications under Section 85 (6) of the Land Reforms Act requesting that the option of the declarant that the properties covered by their claim petitions may not be accepted and other properties in the actual possession of the declarant be taken possession of. Under the impugned order the Land Board has turned down the requests of Sri. Krishnan and Sorajaini.

2. Heard Sri.T.Krishnanunni, the learned counsel for the petitioner and the learned Government Pleader. Sri.Krishnanunni submitted that the Land Board seems to have been under a mistaken notion that the petitioner and Krishnan were trying to reverse the claims which were finally dismissed. The request was only that the identity of the land to be surrendered on the strength of the order passed by the Taluk Land Board shall be determined in such a way as to exempt the properties which are subject matter of their claims. The learned counsel for the petitioner further submitted that in another revision petition filed by Sri. Krishnan the impugned order has been set aside to the extent it pertains to Sri. Krishnan.

2. A reading of Section 85 (6) A, B & C particularly (C) will show that a person whose possession over the land had been admitted by the declarant earlier, is to be allowed a say in the matter of determining the identity of the land to be surrendered by the declarant pursuant to the order of the Land Board finding that the declarant is holder of excess land under the Land Reforms Act. Moreover, I find that the learned Government Pleader is not in a position to dispute the submission of the Mr.

Krishnanunni that in the Civil Revision Petition filed by Sri.Krishnan the order has been set aside to the extent it pertains to Sri.Krishanan . The Land Board itself I notice has found that the claims of the Krishnan and the present petitioner are identical.

Under the above circumstances, I set aside the impugned order and direct the the land Board to take a fresh decision on the identity of the land to be surrendered by the declarant after hearing, the petitioner and also declarant Due regard will be given while taking such decision to clause C of sub section 6 of Section 85 of the Land Reforms Act.

PIUS C. KURIAKOSE,
JUDGE.

Dpk

PIUS C.KURIAKOSE, J

C.R.P. NO.1440 OF 2002C

O R D E R

12TH JULY 2007